

REMARKS

In the Office Action dated December 28, 2007, claims 1-29 were pending. Claims 1-8, 12-22, 26-29 were rejected under 35 U.S.C. §102(e) as being anticipated by Ishwar et al., Pub. No.: US 2004/0017816, (hereafter referred as, “*Ishwar*”). Claims 9-11 and 23-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ishwar in view of Kalkunte et al., Pub. No.: US 2002/0012345, (hereafter referred as “*Kalkunte*”).

Independent claims 1, 15, and 29 are amended to clarify that the plurality of tunnels comprise a link aggregation, such as assignees “*EtherChannel*”.

Claims 1-8, 12-22, 26-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by Ishwar. Applicants respectfully traverse this rejection. They further reargue and reassert their arguments made in their previous amendment.

Furthermore, as noted above, independent claims 1, 15, and 29 are amended to clarify that the plurality of tunnels comprise a link aggregation. The first element in claim 1 requires: “*creating a link aggregation comprising a plurality of tunnels across a computer network to connect a first computer to a second computer, the plurality of tunnels including a tunnel for each link in the link aggregation, said link aggregation capable of simultaneously supporting a plurality of transmission protocols*”. Iswar does not suggest or teach a link aggregation of tunnels. Rather, it is directed towards unconnected *tunnels* or *VLANs*. The present invention utilizes end-to-end tunnels or VLANs, but as a part of a link aggregation, such as assignee of this application’s *EtherChannel*. A link aggregation is an aggregation of links. In the prior art, the link

aggregations were of Ethernet channels. In the present invention, the links are VLANs or tunnels.

There are significant differences between the Ishwar tunnels or VLANs and the link aggregations presently claimed. First note that a single address is typically utilized to refer to a link aggregation comprising multiple links. In the case of a level 2 link aggregation, the single address is typically a media access control (MAC) address. In the case of level 3, it is typically an IP address. Thus, a single MAC address is used to designate or address multiple tunnels or links, whereas in Ishwar, a single link or tunnel has one or more MAC or IP addresses. Thus, in the present invention: *“A connection is established through the computer network between the first computer ... with a second computer ... using the plurality of tunnels”* ([0011]). This is impossible in Ishwar, since a connection there translates into a single tunnel, with one (or more) addresses and not a plurality of tunnels. This link aggregation configuration is notable in the present invention from the repeated references to link aggregation and EtherChannel throughout the specification.

The examiner seemed to assert in the latest Office Action that Ishwar taught link aggregation protocols. However, there is no mention, suggestion, or teaching, of a link aggregation (such as assignee’s EtherChannel) in that reference.

These elements are missing in the Ishwar reference. Applicants therefore respectfully submit that a prima facie case of anticipation has not been made, that this rejection is improper, and request that it be withdrawn. The remainder of the claims are dependent upon these claims, and should be allowable for the same reasons.

Furthermore, as to claims 3 and 17, Ishwar does not mention PAgP protocol and does not discuss or suggest a link aggregation of VLANs. These elements are missing in Ishwar.

Furthermore, as to claims 4 and 18, Ishwar does not mention UDLD protocol. Mention of LSP is not mention of UDLD. This element is missing from Ishwar.

Furthermore, as to claims 5 and 19, Ishwar does not mention EtherChannel or Etherchannel ports. Additionally, EtherChannel ports are connected by links (typically Ethernet, but in this invention, VLANs) with corresponding EtherChannel ports. Ishwar FIG. 3 shows multiple VLANs from multiple devices coupled to a single SPED, which is coupled over a single connection to another SPED, which breaks up the traffic into two VLANs again. This is just the opposite of what is claimed here. These elements are missing from Ishwar.

Furthermore, as to claims 6 and 20, no mention is made of multipont tunneling in the cited sections of Ishwar. Similarly, MPLS is not mentioned there. Rather, this section of Ishwar teaches away from this element, since it involves a single logical connection. This element is therefore missing from Ishwar. Claims 7, 8, 21, and 22 are dependent upon these claims and should be allowable for these additional reasons.

Furthermore, as to claims 13 and 27, it was asserted that Ishwar disclosed multipoint protocol tunneling detection on a per-protocol basis ([0043]). But the cited section of Ishwar does not disclose this, nor does the Office Action explain how this might work in that cited section of Ishwar ([0043]). The only mention of protocol in that paragraph is in Multi-Protocol Label Switching (MPLS), and there is no reason to believe

that that involves multipoint protocol tunneling detection on a per-protocol basis. Thus, this element is missing from Ishwar.

These additional elements are also missing from Ishwar, along with the elements missing from the independent claims and argued above. Applicants therefore respectfully submit that a prima facie case of anticipation has not been made, that the rejection of these claims is therefore improper, and request that it be withdrawn.

Claims 9-11 and 23-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Ishwar in view of Kalkunte. Applicants respectfully traverse this rejection, and further point out that these claims are dependent upon the independent claims argued above and should be allowable for the same reasons. Furthermore, applicants reassert and reargue their arguments made in their previous amendment.

Furthermore, as to claims 9 and 23, Kalkunte mentions an AGE TIMER, but does not mention or suggest what value to set it at. The purpose of the AGE TIMER in Kalkunte is “*Dynamic Address Learning*”. This has no relationship to the use of the timer in the present invention (e.g. MPT problem detection [0022]), and thus, there is no reason to believe that Kalkunte would set its AGE TIMER to the value specified in this claim. The reason cited in the Office Action bears no relationship to either Kalkunte nor the present invention, but is obviously derived from the present invention, utilizing prohibited hindsight. This element is missing from the combined references.

Furthermore, as to claims 10 and 24, it is argued by the Examiner that the Hit bit is utilized to purge ARL entries. But the rejection of claims 9 and 23 involved setting the Static bit, and not the Hit bit. There is no relationship shown by the examiner between

these two bits in Kalkunte. Besides, Kalkunte purges the ARL entry upon timeout, and does not drop all packets with other source MAC addresses. Furthermore, there is no showing of how the combined references would work together here, or indeed, why purging the ARL entry would result in dropped packets. Thus, these elements are also missing from the combined references.

Furthermore, as to claims 11 and 25, it was asserted that Kalkunte teaches that if a new MAC address has to be learned and if the ARL table is full, then random non-static entry can be picked up. That is not what was claimed here, which was that after the timer expires the next source MAC address encountered is used at the next multipoint protocol tunneling reference. It was further asserted that it would have been obvious to imply logic of Kalkunte in the system of Ishwar, because once the aging timer is expired and packet arrives with a new source MAC address with hit bit (missing in the present invention), random non-static entry can be picked up to move to the next multipoint protocol tunneling reference for further processing. But this adds nothing of consequence to Ishwar. Besides, there is a distinct difference between the absolute “provides” of the presently rejected claims and the “*can be picked up*” in Kalkunte. In that case, it is only picked up if the ARL table is full. Thus, even if Kalkunte is implemented into Ishwar (and there is no reason to believe that would be possible or beneficial), the new source MAC address maybe inserted into the ARL table. It might not be. And there is no reason to believe that insertion into the ARL table would teach using the new source MAC address as the next multipoint tunneling reference. Indeed, the only reason that the next multipoint tunneling reference is relevant in the first place is because it is claimed and

shown by applicants. Neither cited reference operates this way, nor is it relevant for either one. Thus, prohibited hindsight is utilized here. Thus, these additional elements are also missing from the combined references.

Applicants therefore submit that a prima facie case of obviousness has not been made for these claims, that this rejection is improper, and request that it be withdrawn.

Applicants believe that the above-identified application is now in condition for allowance and such action is respectfully requested.

If the Examiner has any questions regarding this application or this response, the Examiner is requested to telephone the undersigned at 775-586-9500.

Respectfully submitted,  
SIERRA PATENT GROUP, LTD.

Dated: February 26, 2008

Sierra Patent Group, Ltd.  
1663 Hwy 395, Suite 201  
Minden, NV 89423  
(775) 586-9500

/bruce e. hayden/  
Bruce E. Hayden  
Reg. No.: 35,539